

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 892 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SONALBEN GOVINDBHAI GAJJAR

Versus

PRINCIPAL, MAHILA ARTS COLLEGE

Appearance:

MR BK OZA for Petitioner

MR AD OZA for Respondent No. 5

None present for other Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 05/04/99

ORAL JUDGEMENT

#. Heard the learned counsel for the parties.

#. The technical approach of the tribunal may be correct but it has not considered the substance of the matter. It is also now no more res-intergra that any order passed by a judicial court or administrative authority or quasi-judicial authority, if adversely affects or causes

prejudice to the other person and that person, if is not a party to those proceedings in which the order has been passed, that person has a right to file review application or challenge the same in the appellate forum where the appeal is provided or in any other forum with leave of the Court. Having in consideration this principle of law, if the matter is considered, then certainly the petitioner is a necessary party to the Application No.59 of 1995 filed by respondent No.5 before the Gujarat Affiliated Colleges Services Tribunal at Ahmedabad.

#. The facts of the case, in brief, on which there is no dispute between the parties are that the respondent No.5 has approached the Tribunal with the grievance that he is already selected on the post of lecturer in Mahila Arts College at Amreli in the year 1992. This very post has been advertised for selection and the petitioner and respondent No.5, both applied for the said post in response to that advertisement. It is not in dispute that in selection list which has been prepared by selection committee, name of petitioner was placed at sr.no.1 whereas name of respondent No.5 has been placed at sr.no.2. This selection has though been not directly challenged before the Tribunal, but if we go by the substance of the matter, certainly in case the application of respondent No.5 is allowed, then selection of the petitioner made for the post of lecturer will go. The petitioner in these facts was right and correct to approach to the tribunal for her impleading as party to the application. The respondent No.5 is claiming the very post for which selection has been made in which the petitioner has been placed at sr.no.1 in the merit list and respondent no.5 at sr.no.2 thereof. So in case the application is decided in favour of respondent No.5, certainly it will cause prejudice or otherwise adversely affect the right of the petitioner of his appointment on the basis of selection on the post of lecturer in which respondent No.5 has also taken chance of selection. The order ultimately passed in the tribunal in absence of petitioner, shall be questionable by petitioner may be with leave of the Court. It is also in the larger interest of respondent No.5. If he takes a decision from the tribunal in his favour behind the back of petitioner, then certainly, it will not be binding on the petitioner and lastly, non impleading the petitioner in the application results in manifold litigations. So if this matter is considered from this aspect, then too, it is in the interest of respondent No.5 himself that the petitioner be impleaded as party to the application pending before the Tribunal. Impleading of petitioner as

respondent in the application before the Tribunal will shorten the litigation also.

#. In the result, this special civil application succeeds and the same is allowed and the order of the Tribunal dated 13.10.95, annexure-A, is quashed and set aside and the petitioner is ordered to be impleaded as respondent No.5 in the Application No.59 of 1995 filed by Chetnabn Jerambhai Savalia against the Principal, Mahila Arts College and others.

#. I find sufficient justification in the prayer of the learned counsel for respondent No.5 that this Court may give directions to the Tribunal to decide her application expeditiously. This prayer has also not been opposed by learned counsel for the petitioner. Order accordingly. The Tribunal is directed to decide Application No.59 of 1995 in accordance with law within a period of four months from the date of receipt of writ of this order. It is further made clear that impleaded respondent No.5, i.e. the petitioner herein, shall be entitled to file reply to the application as well as to adduce documentary and oral evidence within time bound programme as decided by the Tribunal in the matter.

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[sunil]